

ANNEX J

PANEL DISCUSSION 2

The ASEAN Regional Instrument: Moving Forward

Objective	Panel 2 consulted on two key areas of interest in current discussions of the ASEAN Committee of Migrant Workers related to the drafting of the Regional Instrument on the Protection of Rights of Migrant Workers: (a) the content and legal status of the regional instrument; (b) the consultative processes with civil society organizations in the formulation of the regional instrument.
Participants	ASEAN Secretariat Government Representatives Regional Civil Society Organizations including regional trade union centers, regional and national migrant advocacy groups UN Regional Offices National Academics (List attached)

Presentation

Mr. Sinapan Samydorai, Task Force on ASEAN Migrant Workers

Mr. Sinapan Samydorai presented the civil society proposals on the the ASEAN Framework Instrument on the promotion and protection of the Rights of Migrant Workers. Reiterating the value of a human rights approach and respect for ILO core labor standards in the treatment of documented and undocumented migrant workers, he urged the ACMW to acknowledge, extensively use the CSO proposal for a comprehensive legally binding instrument.

Mr. Sinapan further urged the needed harmonization of national laws to correspond to UN and ILO standards. He also highlighted the need to give attention to specific groups of workers, including domestic workers, to be recognized under national laws.

Mr. Sinapan urged the ACMW to consider civil society as partners in the drafting process, to recognize the value of CSO in supporting and monitoring the implementation of the framework instrument. Transparent and inclusive processes further understanding on the value of ASEAN cooperation.

Plenary Interventions

The plenary discussions provided a frank candid exchange on the current status of the drafting of the regional instrument.

Interventions from the floor emphasized the importance of keeping a momentum in the ASEAN, with the adoption of the Charter and the agreement on the TOR for the human rights body.

These are significant steps – however, there is still need for a changing the mindset and appreciation of the larger community concerns. Consensus building processes are difficult

but ways needs to be found to get a common understanding of common goals and purpose. Criticism needs to be constructive. Helping each other and working together are important.

There was widespread agreement on the value of a transparent and inclusive process where the government and civil society sit down and discuss and listen to all parts in the process. The government representatives also spoke of the necessity of negotiating space and flexibility in the regional multilateral discussions, especially since contentious issues are involved,

Speakers reiterated the critical need of protection for many migrants is in vulnerable employment. More needs to be done to recognize rights, to fully protect, to regularize the status of many migrant workers, to lower the costs of legal migration. Public awareness raising is essential to culture an environment to protect migrants and promote their rights.

Advocacy campaigns are required at national and regional levels. At the national level, there would also need for sharing even among governmental ministries and groups. National discussions are especially important in destination countries. Civil society should pressure the governments that are not yet 'aboard'.

All spoke about the importance of a monitoring and evaluation system to ensure that the RI is enforced.

The Working Group Discussions

Group 1 considered the topic of **Scope and Coverage** of the regional instrument. The group question was:

The ASEAN Declaration speaks of the protection of human rights of migrant workers. There are references to universal human rights instruments, covering HR, women and children, ILO workers' rights instruments. Please consider these 2 questions

Whose rights are covered and protected by the proposed regional instrument? What rights are considered?

Recommendations:

- All migrant workers and their families, regardless of status and regardless of place of origin, including migrant workers in transit, should be covered by the proposed regional instrument
- All ASEAN countries should protect their nationals working in countries outside the region
- Seafarers already covered by the Maritime Labour standards do not need to be covered by the proposed regional instrument but fisher folks that are not covered by the Maritime Labour standards should be covered by the regional instrument
- The proposed regional instrument should meet the fundamental human rights and labour standards in all UN and ILO conventions

Group 2 considered the needed **Processes and timelines** to develop a regional instrument. The group question was:

The ACMW has designated a drafting committee from its ranks to formulate the regional instrument consisting of 2 sending, 2 receiving countries.

What do you consider to be reasonable timeline for completing document?

1. What steps are needed to ensure (or institutionalize) engagement with civil society, as articulated in a number of documents at various steps of the process, without reducing the flexibility of the regional multi-lateral negotiations?

2. How do you envision the role of the ASEAN Migrant Labour Forum in the process?

Recommendations:

1. The group suggests the following time line for the finalization of the draft of framework instrument:

September 2009	2 nd meeting of ACMW	Drafting team presents the progress report of drafting framework instrument to ACMW
1 st week October 2009, Kuala Lumpur	3 rd drafting team meeting	Taking the inputs from ACMW into the discussion. Political commitment on the principle issues on the draft framework is agreed.
January 2009, Philippines	4 th drafting team meeting	The team to agree on the first draft The drafting team to distribute the copy of the first draft to civil society and emerging issues to be shared
January-March 2010	National consultations on the first draft to CSOs	
March 2010	5 th drafting team meeting	The team to take into consideration the inputs of the national consultations, and come up with the second draft

April 2010	3 rd ASEAN Forum on Migrant Labor (suggested to the host country – Vietnam) Interface meeting	<i>Request for clarification: In the interphase meeting?</i> <i>This is the ASEAN Migrant Labour Forum and should aim to have as broad a constituency as possible.</i>
May 2010	Special Session to ACMW, Back-to-back with SLOM and ALMM (Vietnam)	Drafting team to report the second draft and its process anticipating the SLOM/ALMM If SLOM/ALMM approves the draft, it can be sent to ASEAN Summit for endorsement If there are technical comments from the ACMW, these will need further discussions
September 2010	3 rd Meeting ACMW	Drafting team to submit the final draft to ACMW
October 2010	ASCC meeting + 16 th ASEAN Summit (Vietnam)	The adoption of the framework instrument, assuming acceptance by either SLOM and ALMM

2. It is suggested that ACMW should have an interface meeting with AICHR and ACWC. Eventually that all mechanisms will become one.
3. The host country of the 2nd ASEAN Forum on Migrant Labor (Thailand) should convey that the recommendation from this meeting is carried forward to ACMW for further deliberation.

In the Working Group, there was a general appreciation of the role of the ASEAN Migrant Labour Forum for several contributions:

- (a) the quick formation of the ASEAN Committee on Migrant Workers;
- (b) the institutionalization of “broad consultation processes” now reflected in the ASEAN Blueprint on the Social-Cultural Community;
- (c) the engagement of a greater number of civil society organizations in the processes.

There was a recommendation to have a designated regular date and timing for the Forum.